

AO 91 (Rev. 11/11) Criminal Complaint

## UNITED STATES DISTRICT COURT

for the

Northern District of New York

UNITED STATES OF AMERICA )

v. )

THOMAS O'BRYAN )

Case No. 1:20-MJ - 477 (DJS)

Defendant )

## CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief. On or about the date(s) of March 19, 2020 and April 9, 2020 in the county of Ulster in the Northern District of New York the defendant violated:

*Code Section*  
18 U.S.C. § 2252A(a)(2)

*Offense Description*  
Distribution of Child Pornography

This criminal complaint is based on these facts:  
SEE ATTACHED AFFIDAVIT

☒ Continued on the attached sheet.



Complainant's signature

FBI SA Andrew J. Zubik

Printed name and title

Attested to by the affiant in accordance with Rule 4.1 of the Federal Rules of Criminal Procedure.

Date:

Sept 22, 2020



Judge's signature

City and State: Albany, NY

Hon. Daniel J. Stewart, U.S. Magistrate Judge

Printed name and title

**AFFIDAVIT IN SUPPORT OF A CRIMINAL COMPLAINT**

I, **Andrew J. Zubik**, being first duly sworn, hereby depose and state as follows:

**INTRODUCTION AND AGENT BACKGROUND**

1. I make this affidavit in support of a criminal complaint charging Thomas O'Bryan ("O'BRYAN") with knowingly distributing child pornography using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce by any means, including by computer.

2. I am a Special Agent with the Federal Bureau of Investigation (FBI) and have been since February 2016. I am assigned to the Albany Division, Albany, NY. I am currently investigating federal violations concerning child pornography and the sexual exploitation of children. I have gained experience regarding such crimes through training in seminars, classes, and everyday work related to conducting these types of investigations. My current duties include investigating criminal violations relating to child exploitation and child pornography, including violations pertaining to the illegal production, distribution, receipt and possession of child pornography in violation of 18 U.S.C. §§ 2251(a) and 2252A. I have received training in the area of child sexual exploitation and have observed and reviewed numerous examples of child pornography in all forms of media including computer media. My investigative experience includes interviewing victims and witnesses, as well as conducting searches of physical locations, social media, and electronic devices pursuant to court order or consent.

3. The statements contained in this affidavit are based upon my investigation, information provided by other law enforcement officers, information gathered from the service of

administrative subpoenas and responses to federal search warrants, and my experience and training as an FBI Agent.

4. Because this affidavit is being submitted for the limited purpose of supporting a criminal complaint, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause to believe that O'BRYAN has violated Title 18, United States Code, Section 2252A(a)(2) (distribution of child pornography).

#### **PROBABLE CAUSE**

5. Between March 13 and March 28, 2020, an undercover law enforcement officer (UC) who maintained an undercover Kik profile within a Kik group titled "#c.hildvid," posted to the group that he had a daughter. He then received a message from the group administrator that new members are required to send a child pornography video to the administrator in order to remain in the group. The administrator sent the UC several unsolicited images of infants being sexually abused. The UC also received unsolicited messages from other users in the #c.hildvid group that contained images of child pornography. On March 19, 2020, the UC received an unsolicited message from Kik username "irishbstrdinc" with display name "Deleted Bye." Below is the conversation between the UC and "irishbstrdinc" in its entirety, all of which occurred on March 19, 2020:

"irishbstrdinc": S2r<sup>1</sup>

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<sup>1</sup> S2r is known amongst the law enforcement community, specifically within child exploitation investigations, to mean "Send to Receive" in reference to child pornography. Based on my training and experience, individuals attempt to avoid law enforcement detection by asking for child pornography first before the user will send child pornography.

UC: Sup

“irishbstrdinc”: How are you

UC: Good wyd

“irishbstrdinc”: Edging

UC: Lol

“irishbstrdinc”: You?

UC: Bored

UC: Looking for fun

“irishbstrdinc”: Show me what you like

UC: Yung

“irishbstrdinc”: Send

UC: Not first

“irishbstrdinc”: [Sends a 31-second video depicting a minor female approximately 12-14 years old. The minor victim is masturbating her vagina. The minor victim’s vagina is the focal point of the video. The minor victim’s entire body, including her face, can be seen in the video.]<sup>2</sup>

UC: Too old

“irishbstrdinc”: Send something so I know you are real

6. Law enforcement officials served a subpoena on MediaLab.Ai, Inc., the parent company of Kik Interactive, for basic subscriber information pertaining to Kik user “irishbstrdinc.” On April 3, 2020 MediaLab.Ai, Inc. responded to the subpoena and provided the following information for the “irishbstrdinc” account:

Registered First Name: Deleted

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<sup>2</sup> The child pornography video is available to the court upon the court’s request.

Registered Last Name: Bye  
Registered Email Address: irishbstrdinc@[REDACTED].com  
Username: irishbstrdinc

7. The Kik return also revealed that the IP address used by Kik user “irishbstrdinc” on March 19, 2020 was 69.206.33.118.

8. Separately from the undercover investigation, on April 24, 2020, the National Center for Missing and Exploited Children (NCMEC) received a Cyber Trip from Kik regarding 29 images and videos uploaded to its servers on April 9, 2020 from Kik user “irishbstrdinc” from an IP address of 69.206.33.118 and registered email address of irishbstrdinc@[REDACTED].com. Law enforcement officials reviewed these images and videos, which included the following files:

a. Video titled **e1cfaf5-052c-4b37-8086-8a941d18ba1a** – depicts an adult female performing oral sex on a prepubescent female approximately 8 to 10 years old.

b. Video titled **df74e257-2186-48bf-a3ec-475fb5906781** – depicts an approximately 3 to 5 year old boy inserting his penis into a female’s vagina while having his buttocks spread.

c. Video titled **a9972fac-b0d8-b0e1-d9cbaef25c98** – depicts an erect male penis being inserted into an approximately 8 to 10 year old female’s anus.

d. Video titled **7a5bb842-34ae-41b3-a58a-bd8592dd6582** – This is a compilation of child sexual abuse material. The first half of the video starts with the caption “Swallow your medicine baby” followed by seven separate video sections; five of those videos are of prepubescent minor females performing oral sex on an erect penis which then ejaculates into the minor victim’s mouth. The second half of the video starts with the caption “Clean the pipe with a post cum piss” followed by five separate video sections; one video is of a male penis urinating on a prepubescent vagina, three videos are of a male penis urinating onto the face and body of prepubescent females, and one video is of a prepubescent female in a shower with a male penis next to her face.

9. On July 14, 2020, Charter Communications responded to a subpoena for records related to IP address 69.206.33.118. According to the return, IP address 69.206.33.118 was leased to M.H., at [REDACTED], Kingston, New York 12401, from May 15, 2018 through June 19, 2020.

10. On July 14, 2020, the Honorable Daniel J. Stewart, U.S. Magistrate Judge, authorized a search warrant for the Kik account used by “irishbstrdinc.” On August 26, 2020 Kik Interactive responded to the search warrant. The return provided by Kik contained a “logs” folder. Within the “logs” folder was a “group send message” log. The “group send message” log contained the date, time and IP address used by “irishbstrdinc” to send messages through Kik between the dates of February 9, 2020 and May 17, 2020. According to this log, IP address 69.206.33.118 was the only IP address used by “irishbstrdinc” to send messages on Kik within this date range. Additionally, the “logs” folder contained a “friends added” log. According to this log, “irishbstrdinc” added the UC’s Kik username as a friend.

11. Law enforcement officials served a subpoena on Oath Inc., the parent company for [REDACTED].com, for basic subscriber information associated with the e-mail address irishbstrdinc@[REDACTED].com, the email address registered to Kik user “irishbstrdinc.” On April 13, 2020, Oath Inc. responded to the subpoena and provided the following:

Login ID(s): irishbstrdinc, irishbstrdinc@[REDACTED].com

Mail Name: irishbstrdinc@[REDACTED].com

Account Status: Active

Phones: 845-417-[REDACTED] verified

12. Law enforcement then served a subpoena on Verizon Wireless for wireless number 845-417-[REDACTED]. On June 30, 2020 Verizon Wireless responded to the subpoena and provided the following information for the account associated with phone number 845-417-[REDACTED]:

Account Number: [REDACTED]

First Name: THOMAS

Address: [REDACTED], Kingston, NY 12401

Last Name: OBRYAN

IMEI: 351884092311721

13. On September 18, 2020, the Honorable Daniel J. Stewart, U.S. Magistrate Judge, authorized a search warrant for the person of Thomas O'BRYAN, the premises located at [REDACTED], Kingston, NY 12401, a 2011 Hyundai Elantra with NY Plate [REDACTED] registered to O'BRYAN, and electronic devices found in or on any of the items to be searched.

14. On September 22, 2020, law enforcement officials executed the above search warrant. During a voluntary non-custodial interview with law enforcement officials on this date, O'BRYAN admitted that he resides in the basement of [REDACTED], Kingston, NY 12401, that his Kik username is "irishbstrdinc", email address is irishbstrdinc@[REDACTED].com, and phone number is 85-417-[REDACTED]. O'BRYAN further admitted to viewing and sharing child pornography on his cellular phone, through Kik, over the course of the last few months. Pursuant to the search warrant, law enforcement officials recovered two cellular phones and one desktop computer from the basement of O'BRYAN's residence.<sup>3</sup> O'BRYAN stated no one has access to his electronic devices, and no one knows his passcodes to these devices.<sup>4</sup>

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<sup>3</sup> Law enforcement officials recovered two additional cellular phones, a laptop computer, and 9 DVDs, from the adult male roommate who resides at [REDACTED], Kingston, NY 12401, after the roommate alerted law enforcement that he found these items in O'BRYAN's basement after law enforcement left the residence after executing the search warrant.

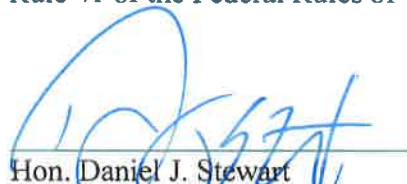
<sup>4</sup> An adult male and female also reside at [REDACTED], Kingston, NY 12401, along with a minor child. The adult male and female were interviewed by law enforcement officials and denied viewing, possessing or distributing child pornography. They further denied any knowledge that Thomas O'BRYAN possessed, viewed, and distributed child pornography.

**CONCLUSION**

15. Based on the aforementioned factual information, your affiant respectfully submits that there is probable cause to believe that on or about March 19, 2020 and April 9, 2020, O'BRYAN knowingly distributed child pornography in violation of Title 18, United States Code, Section 2252A(a)(2).

  
Andrew J. Zubik  
Special Agent, FBI

I, the Honorable Daniel J. Stewart, United States Magistrate Judge, hereby acknowledge that this affidavit was attested to by the affiant by telephone on September 22, 2020 in accordance with Rule 41 of the Federal Rules of Criminal Procedure.

  
Hon. Daniel J. Stewart  
United States Magistrate Judge